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the defendant, by the exercise of proper care and due diligence, could have avoided the mischief which happened; and this is true, though the plaintiff was a trespasser. A railroad company does not owe to trespassers the duty of foresight to guard against their negligence, but when their peril is discovered and brought home to the company, the duty to avoid injury to them attaches, and should be measured and limited only by the higher and more imperative duties it owes to others.

3. INSTRUCTIONS—*Hypothetical case—lack of evidence to support.* An instruction which is based on a hypothetical case, not supported by the evidence, or omitting material portions thereof, and which tends to mislead the jury, should not be given.

4. RAILROADS—*Exclusive use of track—public crossings—trespassers—contributory negligence.* Except at public crossings and other places where the public have the right to use railroad property, a railroad company has the exclusive right to the uninterrupted use and enjoyment of its roadbed, track, and other property. It owes no duty to trespassers, but cannot with impunity inflict on them reckless or wanton injury. The duty of provident circumspection, which foresees and forestalls danger, is due to passengers only. But when the peril of a trespasser is discovered, it then becomes the duty of the company to do all that can be done, consistently with its higher duty to others, to save him from the consequences of his own improper act, regardless of whether he was guilty of contributory negligence or not. Under the evidence in the case at bar the trial court properly refused to set aside the verdict as contrary to the law and the evidence.

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M. S. CAHOON, TREASURER, v. IRON GATE LAND & IMPROVEMENT COMPANY AND ANOTHER.—Decided at Richmond, December 12, 1895.—*Cardwell, J.*:

1. CONSTITUTIONAL LAW—*Title of Act—charter of town of Iron Gate—town partly in two counties.* The title of the Act incorporating the town of Iron Gate (Acts 1889-'90, p. 194,) is "An Act to incorporate the town of Iron Gate, Virginia." Section 4 of the charter enacts that the whole of the town of Iron Gate (a part of which lies within the county of Botetourt) shall be deemed to be within the county of Alleghany, and transfers all civil and criminal jurisdiction to the latter county. This section of the charter is in conflict with Section 15, Art. V, of the Constitution, which declares that "No law shall embrace more than one object, which shall be expressed in its title," and is therefore void. It is immaterial that the territory sought to be transferred to Alleghany is only a small portion of a large tract which was once properly taxable in that county, as the land has since been divided into small lots or parcels.

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GOODE & COMPANY v. GEORGIA HOME INSURANCE Co.—Decided at Richmond, December 19, 1895.—*Buchanan, J.*:

1. INSURANCE—*Liability of insurer for acts of agents and their clerks.* An insurer is responsible not only for the acts and declarations of its general agents, within the scope of their authority, but also for the acts and declarations of the clerks and employees of such agents, to whom the latter delegate authority to discharge their functions, within the scope of the agent's authority and while engaged about the business of the principal.